



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

March 6, 2014

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Jeffrey Mathis**
Tax Registry No. 949279
10 Precinct
Disciplinary Case No. 2012-7070

CHAN

The above named member of the service appeared before Assistant Deputy Commissioner Amy J. Porter on July 17, 2013 and August 16, 2013, and was charged with the following:

DISCIPLINARY CASE NO. 2012-7070

1. Said Probationary Police Officer Jeffrey Mathis, assigned to Patrol Borough Manhattan South, while on duty, on or about November 10, 2011, was involved in a motor vehicle accident while operating a Department vehicle and thereafter failed to request a patrol supervisor to the scene or prepare a Motor Vehicle Accident report (MV104).

**P.G. 217-06, Page 1, Paragraphs 2 through 4 DEPARTMENT VEHICLE
ACCIDENTS**

2. Said Probationary Police Officer Jeffrey Mathis, assigned to Patrol Borough Manhattan South, while on duty, on or about November 10, 2011, failed to maintain said officer's Activity Log (PD112-145), as required.

P.G. 212-08, Page 1, Paragraphs 1(b) and 1(c) ACTIVITY LOGS

In a Memorandum dated December 27, 2013, Assistant Deputy Commissioner Amy J. Porter found Police Officer Jeffrey Mathis Guilty of Specifications No. 1 and 2, in Disciplinary Case No. 2012-7070. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of issues and circumstances in this matter and deem that a greater penalty is warranted. Therefore, Police Officer Mathis is to forfeit fifteen (15) vacation days, as a disciplinary penalty.


William J. Bratton
Police Commissioner



POLICE DEPARTMENT

December 27, 2013

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Jeffrey Mathis
Tax Registry No. 949279
10 Precinct
Disciplinary Case No. 2012-7070

The above-named member of the Department appeared before me on July 17, 2013 and August 16, 2013, charged with the following:

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P.G. 212-08, Page 1, Paragraphs 1(b) and 1(c) – ACTIVITY LOGS

The Department was represented by Jamie Moran, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty of both Specifications.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Police Officer Nathan Collins and Jesus Deras as witnesses.

Police Officer Nathan Collins

Collins has been a member of the Department for approximately three years and has been assigned to the 13 Precinct since 2012. On November 10, 2011, he was assigned to Patrol Borough Manhattan South.

On November 10, 2011, Collins was assigned the 3:00 p.m. to 11:35 p.m. tour as a concert detail at Madison Square Garden. He was specifically assigned to a prisoner transport van. The van was equipped with lights and sirens. Collins was unsure if there was a radio in the van because he had his own portable radio that day. His partner that day was Respondent, who was driving the van as Collins sat in the front passenger seat.

On November 10, 2011, Respondent and Collins were driving northbound on 8th Avenue at approximately 6:55 p.m. when they received a 10-85, meaning there were "plainclothes officers in the vicinity of Madison Square Garden holding prisoners...[who] asked for the transport van to assist them at that location," between 7th and 8th Avenue, possibly 31st Street. The lights and sirens of the van were turned on and the officers headed northbound on 8th Avenue and eastbound on West 34th Street in order

to continue southbound on 7th Avenue. The traffic on 34th Street was backed up, so Respondent drove on the westbound lane in order to proceed east.

Approximately halfway between the mid-block signal light and 8th Avenue, a pedestrian ran out of the stopped eastbound traffic to cross 34th Street causing Respondent to take an "evasive maneuver to the left with the van to avoid the pedestrian." Collins "observed the pedestrian attempting to stop his forward momentum," that is, "trying to stop running." The van continued past the pedestrian on the passenger side. Collins observed the pedestrian through the front windshield, then through his passenger side window. Then he lost sight of the pedestrian. From the passenger side window, he saw the pedestrian begin to lose his balance, but did not see the pedestrian fall.

When Collins exited the passenger side of the van, he turned around and saw the pedestrian standing up from a crouched position. The pedestrian was about mid-way between the front and back wheels of the van. Collins saw a tear in the pedestrian's shirt; he believed the tear was on the pedestrian's left shoulder. Collins did not observe any physical injuries to the pedestrian. He did not recall if he or Respondent asked the pedestrian for his name or identification. Both asked the pedestrian several times if he required medical attention or if he was hurt.

Neither Collins nor Respondent requested their supervisor to the scene, nor did they prepare any reports regarding the incident. Neither stopped any of the people walking by for witness statements, but Collins did make an activity log entry about the incident Department's Exhibit (DX) 1.

Collins was served with charges and specifications about this incident. He agreed to forfeit 10 vacation days. He was not promised anything in return for his testimony.

On cross-examination, Collins could not definitively say if the pedestrian ever hit the van. In his official Department interview, in response to the question, "At any time, did you see that ... individual make contact with the van?" Collins answered, "I did not. I did not see him make contact. I did not hear him make contact with the van."

During the incident, there were about two prisoners in the back of the van. None of the prisoners said anything about the van hitting someone or any type of motor vehicle accident.

Collins interacted with the pedestrian for possibly three minutes because the pedestrian "was saying over and over again...he had somewhere to go, he had to leave, he was fine." At no point during the conversation did the pedestrian say he was hurt, ask for an ambulance, ask for medical attention, or tell either officer that they just hit him with their van. No other pedestrians approached him to offer any testimonial evidence about what they observed. When the pedestrian left, he "rushed off," but "he wasn't walking slowly or with a limp." Collins did not see any blood.

At the time of the incident, Collins was 33 years old, had been a police officer for approximately 18 months, and had been on the street for approximately 11 months. He knew and understood what a motor vehicle accident entailed. At the time of this incident, he did not believe he had been in a motor vehicle accident because there was no injury, the pedestrian claimed he was not hit by the car, the pedestrian ran off and showed no apparent physical injury, and there was no damage to the van. For these reasons, he did not fill out an MV-104 (motor vehicle accident report) or contact a supervisor.

As Collins and Respondent were traveling east down the westbound lane, they had a clear view of the traffic in front of them, and there was no traffic coming towards them; moreover, Respondent was not operating the van at an unsafe speed. In his activity log, Collins wrote that the pedestrian “ran into left side of van;” Collins explained that he meant that the pedestrian was running in the direction of (“toward”) the left side of the van. The pedestrian emerged from between cars that were stopped in traffic and attempted to cross the street where no crosswalk was near.

Collins and Respondent did not confer on what to write about the incident in their Activity Logs. In filling out an Activity Log, a police officer may have to wait minutes or hours before they have the opportunity to record incidents. On the day of this incident, Collins and Respondent also made an arrest, transported more prisoners, and conducted patrol for the concert at Madison Square Garden.

On the following day, he and Respondent participated in interviews, after being held overnight at the precinct.

Jesus Deras

Deras has a Bachelor of Science, currently works as a mechanical engineer at 7 Penn Plaza, and resides in Queens. He has worked for his current employer for approximately two years. He typically works from 8 a.m. to 6 p.m., but on November 10, 2011, he stayed at work later than usual. On that day he was wearing black slacks and a gray shirt.

At 7:00 p.m. on November 10, 2011, Deras went to HSBC on 34th Street and 8th Avenue to deposit a check. He then continued walking on the south side of the street in

the eastern direction towards a K-Mart on 34th Street and 7th Avenue to buy a fan for his office. As he was walking, he saw a Conway store across the street and began to cross the street about 20 feet before getting to a crosswalk. As he began crossing, he noticed a van driving on the wrong side of the road. He "hopped back" but was "clipped on the left side" of his body by the passenger side of the van. He then fell to the ground, first hitting his buttocks and then his back. The police officers stopped the van, got out, and approached him. They appeared concerned, were polite and respectful, and asked him if he was okay. He told the police officers he was fine, so they returned to their van and drove away.

Deras' interaction with the police officers lasted about two minutes. The officers never asked him for his identification, his name or if he wanted to make a report. Deras denied refusing to give his name or his education. Deras denied ever saying that he was not hit by the van. He also did not tell the officers that he was hurt because "at the time, [he] felt fine.... [He] got hit, and [he didn't] know if it was adrenaline, but at the time, [he] felt fine." After the incident, he walked back to his office and explained the story to his co-workers. He then decided to return home, and as he was walking he saw the same police van and wrote down the license plate number. When he reached his home he called an ambulance because he noticed swelling in his joints.

Deras had started to feel pain when he was on the train ride home. He went to [REDACTED] Hospital in the Rockaways in order to receive medical attention. He learned that he had soft tissue damage, contusions, a couple of bruises, and a cut. While Deras was at the hospital, the Internal Affairs Bureau (IAB) was contacted and they informed Deras that an officer would be sent to his home the next day. The following day, a police

officer arrived at his home to take a police accident report and to take a photograph of his injuries. During the proceedings, Deras was shown and identified a photograph depicting his left shin.

On voir dire, Deras confirmed that there were no markings on the photograph to indicate that he had seen that photograph before. There were also no images contained on the sides of the photograph that show the date on which the picture was taken. Nor was there anything in the background of the photograph to indicate where it was taken. There were no identifying marks on his body that specifically marked the leg in the photograph as his leg. There was no indication that the picture shown to Deras was the same exact photograph that was shown to him when he first met with the Department Advocate, or if it was a copy of the original. The person who took the photograph was a black female. The conversation was recorded by audio tape. On direct examination, Deras stated the background of the picture with his leg was the carpet in his mother's room the same location where his interview and the photograph of his leg took place. His medical expenses totaled about \$1200. He testified that he has no intention of suing the NYPD or the City of New York. No one made any promises to Deras about his testimony, nor did any police officers give him orders.

On cross-examination, Deras affirmed that the van "clipped" him, meaning the side of the van hit the side of his body. He also confirmed that he was interviewed on November 11, 2011 by Sergeant Eloy. During that interview he was truthful and had a clear mind because he was not on any medication. When asked by Eloy if he ever told Respondent or Collins that he was hit by the van, Deras answered, "Well, I mean, it was kind of implied that I got hit by the van. Like, they saw me on the floor, I get up, and

they rush over...They rushed towards me and I rushed towards them. And they were like, are you okay?...It was kind of implied that I got hit by the van.” But Deras never actually told Respondent or Collins that they hit him with their van.

Deras had difficulty getting in contact with Eloy by phone to try to obtain the accident report. He was unaware that the only way to get a police accident report was to go to a precinct and pay for a copy.

Deras affirmed that Conway is in the middle of 34th Street, between 7th Avenue and 8th Avenue. In the middle of that block is also a traffic light with a crosswalk. When he went to cross the street to enter Conway, he was about 20 feet from the crosswalk, and was jaywalking. He also cut in between parked cars to get into the street. At that time, he did not see the police van or hear any sirens.

Once the police officers exited the van, a crowd of about ten people formed around Deras as he got up from the ground on the street. No observers interjected themselves into his conversation. He did not know whether anyone took a picture of the incident. No one asked him if he needed any medical help, but one man did suggest that he stay on the ground and sue. He was unsure if there were people inside the van. He did not notice whether there was banging from inside of the van or if there were windows on the side of the van.

Deras was able to stand up after getting hit by the van. His pants were not ripped, but his shirt was. There was blood on his leg, but that blood did not soak through his pants or his shirt. He told Eloy that his shirt was ripped. He had no cuts on his hands, and no surgery was performed on him when he went to the hospital. The doctors performed a physical examination, which revealed soft tissue contusions and

inflammation on his knee and quadricep. He did not walk with a limp or a cane, and was able to put on his shoes. He did not go to work the day after the incident.

Deras affirmed that he left the officers with the impression that he was okay and there was no problem. After getting up and speaking with Respondent and Collins, he went into Conway. Because he was not finished working for the day, he went back to his office. About an hour after the incident he saw the van again near the entrance to the Long Island Railroad and Madison Square Garden. He did not call 911 to report what had happened, nor did he go up to any law enforcement officer in the area to inform them that he had been hit by a police van. This was because he did not feel pain until about an hour into his hour and a half train ride home to the Rockaways. He was sitting on the train when he first felt the pain, a deep leg thrombosis along with inflammation. When he exited the train, he limped home and then called an ambulance.

On redirect examination, Deras affirmed that Respondent and Collins never asked him if he was hit by their van; he also never told them he was hit by the van because he "figured being sprawled out on the floor was enough." He assumed that the officers knew he had been hit by the van.

When questioned by the Court, Deras affirmed that DX 2 is an accurate representation of what the laceration on his leg looked like on the day the photograph was taken. He had not been aware at the time of the incident that he had such a laceration on his leg, but he noticed a tingling on his leg while taking the train home. Other than the laceration on his leg, his only other injuries consisted of swelling around his calf and quadriceps.

On redirect examination, Deras explained that, in order to see the laceration on his leg he lifted up his pant leg and rolled down his socks.

On recross-examination, Deras described the laceration as about an inch and a half to two inches. He then changed his response to approximately an inch and a half to an inch.

Respondent's Case

Respondent testified on his own behalf.

Respondent

Respondent has been a member of the Department since July 2010 and is currently assigned to the 10 Precinct. On November 10, 2011 he was assigned the Midtown South Precinct on 35th Street between 8th Avenue and 9th Avenue. On that day he was working the 3:00 p.m. to 11:35 p.m. tour with Collins and was assigned to drive a prisoner transport van. Before that day, Respondent had worked with Collins a couple of times.

At about 6:30 p.m. Respondent and Collins were traveling from the precinct northbound on 8th Avenue. When they reached about West 33rd Street they received a 10-85 plainclothes holding on 31st Street between 7th Avenue and 8th Avenue. Respondent and Collins turned on the lights and sirens of the marked prisoner van and turned right onto West 34th Street going eastbound. The lanes on West 34th Street were congested from 7th Avenue to 8th Avenue, so Respondent drove against traffic. He did so

after finding it "safe enough" to drive on. At that time there were about two or three prisoners in the van.

There is a traffic light mid-block between 7th Avenue and 8th Avenue on 34th Street. Respondent did not drive through the mid-block traffic light because "a gentleman ran off of the southern sidewalk on 34th Street through two lanes of traffic." In order to avoid this person, Respondent pulled the wheel to the left and then back to the right. At that time he observed "in the side-view mirror the gentleman falling backwards," but he did not hear any noise or feel any vibrations against the van. When asked if the van hit the gentleman, Respondent answered, "No."

After swerving the van, Respondent stopped the vehicle. He and Collins got out of the car and saw the man standing on the passenger side. There was no damage to the passenger side of the van. They asked him multiple times if he was alright or if he needed an ambulance. Respondent observed the man to be "anxious, but his physical demeanor was fine." The back of the man's clothes were wet, and he had a slight tear on the left shoulder of his shirt. The man had no visible cuts, bruises, scrape marks, rips in his pants, or contusions.

Respondent and Collins spoke to the man for about two to three minutes. During that time, no pedestrians approached them about what had occurred. While speaking, the gentleman stated, "I pulled up. I pulled up. I never hit the van." The officers repeatedly asked him if he needed an ambulance; the man replied no, and eventually "just turned around and ran away." Respondent and Collins then re-entered their van and went to the 10-85. The officers did not fill out a MV-104 (accident report) because "there was no accident," no injuries claimed and no damage to the vehicle. The officers also did not

contact their patrol supervisor because “[t]here was no need for him to come if there wasn’t an accident.” Respondent made an Activity Log entry about the incident.

On cross-examination, Respondent affirmed that he is neither an EMT nor did he attend medical school.

Because of the congested traffic conditions between 7th Avenue and 8th Avenue on 34th Street, Respondent decided to drive eastbound in the westbound lane on 34th Street. He was driving no faster than 20 m.p.h. Respondent agreed that pedestrians do not always use crosswalks when crossing the street, nor do they always look both ways when they cross the street. The man involved in this case “dash[ed] across” the street in a full sprint with his head down and did not look both ways before or while crossing the street. Respondent did not write this man a summons for jaywalking; the man committed no other crimes that Respondent was aware of, other than jaywalking.

The van that Respondent was operating placed him in a seat higher than if he was sitting in the driver’s seat of an SUV. On that van there is a front windshield and there are two side windows: one on the driver’s side and one on the passenger’s side of the vehicle. During the incident both of those windows were closed. Before and at the time of the incident, the lights and sirens of the police van had been turned on. The sirens of a police vehicle are louder than the average car horn, and when the sirens are turned on the persons inside of the vehicle must speak slightly louder than normal. However, Respondent believed that “if [he] hit someone [with the van] it would have made a loud enough noise for [him] to hear it.”

When Respondent started to steer the van to the left, from his side-view mirror he saw the pedestrian’s “top half [go] backwards, his legs [go] forward.” He did not see the

pedestrian actually fall because the man went out of view of the mirror. After the incident, Respondent did not stop any of the many pedestrians to question as witnesses. He spent a total of about two to three minutes with the pedestrian and then resumed patrol. Then he picked up more prisoners and thought he might have arrested someone. He returned to his command at approximately 10:30 p.m.

Respondent has probably filled out over five Activity Logs in his career. When he fills out and closes an Activity Log it is placed in his locker. When filling out an Activity Log, the information Respondent writes down includes who, what, where, how, and sometimes why. Respondent was shown copies of three pages from his Activity Log, which included his entry from November 10, 2011 (DX 3); the entry was made at approximately 7:00 p.m. with Collins. The two officers discussed what happened, what they were going to write, and filled out their Activity Logs at the same time. Respondent was "not saying [he] copied him [Collins] word-for-word."

In the Activity Log, Respondent wrote that the pedestrian refused identification. However, Respondent conceded that he did not ask the man for identification. Respondent noted that the pedestrian was in a rush, but did not ask the man why. Respondent stressed that the pedestrian never stated, "You guys hit me." Respondent was concerned about the pedestrian's well-being, which is why he asked if an ambulance was needed. The pedestrian was the first person to leave the scene, and as he left he did not limp away nor did he appear to be in pain as he ran away. According to his Department interview from November 11, 2011, Respondent stated, the pedestrian "ran into it was a clothing store on the north side of 34th Street and that was pretty much it."

On redirect examination, Respondent affirmed that he did not receive a command discipline for violating vehicle and traffic law ordinances. In his Activity Log, he wrote, "Pedestrian claimed he did not strike the van but fell on the pavement while trying to stop to avoid hitting the van."

On recross-examination, Respondent affirmed that on the second page of his Activity Log he wrote, "Pedestrian ran into the passenger side of the van."

On redirect examination, Respondent explained the above statement meant that the pedestrian was running towards the side of the van.

On recross-examination, Respondent confirmed that he knows the definitions of the words "into" and "towards."

When questioned by the Court, Respondent explained that when the pedestrian said, "I pulled up. I pulled up. I never hit the van," Respondent believed that the pedestrian meant that he "never touched the van," and that "he stopped in time." When explaining why he did not give the pedestrian a summons for jaywalking, Respondent stated, "I felt that he had a ... bad enough night already, that he fell down and ripped his shirt. I didn't feel it necessary to summons him." The reason he did not stop to speak to any witnesses was because "nobody stopped on the sidewalk. Nobody gathered around. No one said anything, so it wasn't necessary."

FINDINGS AND ANALYSIS

Under Specification No. 1, Respondent is charged with, on November 10, 2011, being involved in a motor vehicle accident while operating a Department vehicle and

failing to request a patrol supervisor to the scene or to prepare a Motor Vehicle Accident report.

Under Specification No. 2, Respondent is charged with, on November 10, 2011, failing to maintain his Activity Log.

On April 25, 2013, Respondent's partner, Nathan Collins pled guilty to these same charges and agreed to a 10 vacation day penalty. On May 6, 2013, the Police Commissioner approved this penalty.

There was no dispute about the following facts: Respondent was driving the police van eastbound in a westbound lane when the complainant, Deras, was running across the street. Deras fell, and while he was getting up from the ground, he was approached by Respondent and Collins. They asked him if he was hurt and needed medical attention. Deras told them he was fine and did not need an ambulance. There was no damage to the van. Aside from a tear on the left shoulder of Deras' shirt, there were no observable injuries to Deras.

The officers' and Deras' versions differ in what was said or not said about the van hitting Deras and about Deras' identification.

Deras testified that he was "clipped" or "hit on the left side" and fell to the ground. He did not tell the officers that he had been hit by the van because he thought it was obvious. He assumed that the officers knew that the van had hit him because they stopped the van to make sure he was alright as he was standing up from the ground. Deras described the officers as "very polite, very respectful, real concerned." Deras denied ever saying that he was not hit by the van. Deras also denied refusing to give the

officers his name or identity information and testified that the officers never asked for this information.

Deras went back to work, then decided to go to his home in the Rockaways early. Not until he was on the subway did he feel any pain. Shortly after he got home, he noticed a lot of swelling in his quadriceps and calf area. He and his mother called an ambulance which took him to [REDACTED] hospital. His injuries turned out to be "soft tissue damage: contusions, a couple of bruises, a cut." The evidence indicated that a hospital staff member contacted IAB.

Deras testified that a picture was taken by an IAB agent the day after the accident at Deras' home. The investigator was unable to testify because he was on medical leave. The Department sought to enter into evidence a photograph of Deras' injury to his calf through Deras' testimony. Deras testified that this photograph was an accurate representation of what his left shin looked like later in the day after the incident when he was on the train. Deras also recognized the background in the picture as the carpet in his mother's room. The document is admitted into evidence. (DX 2).

Respondent and Collins both testified that they saw a pedestrian running toward the van, saw him stop short and lose his balance, but never saw the van hit him. The officers both testified that as the pedestrian ran into the traffic lane, Respondent maneuvered to avoid him. The two officers did not hear a noise or feel any vibration from inside the van that would cause them to believe that the van hit a pedestrian. Respondent stated that the van did not hit Deras.

Respondent testified that, when they approached, the pedestrian kept saying, "I pulled up. I pulled up. I never hit the van." Respondent believed that by saying the words "I pulled up" that Deras meant "that he stopped in time."

Collins did not testify that Deras said he was not hit. Collins testified that he did not remember whether Respondent or he asked the pedestrian for his name or identification.

Both officers testified that they asked Deras a number of times whether he was hurt and needed medical attention and that Deras rushed away.

Although he stated that Deras was jaywalking, Respondent did not write him a summons for this because, Respondent explained, "I felt that he had a . . . bad enough night already, that he fell down and ripped his shirt. I didn't feel it necessary to summons him." Respondent did not call a patrol supervisor because he did not believe that there was an accident.

Respondent's assertion that he did not believe an accident occurred is belied by the entries in the Activity Logs made by Respondent and his partner. These entries contain inconsistencies as well as unusual similarities in details.

Respondent wrote in his Activity Log that Deras "claimed he did not strike van, but fell on pavement while trying to stop to avoid van." Collins neither testified nor wrote in his own Activity Log that Deras made this claim. While neither Respondent nor Collins testified that Deras refused to give his identification information to them, both wrote in their respective Activity Logs that the pedestrian refused to give this information. Indeed, Respondent contradicted his own written record when he testified that he did not ask Deras for identification.

Both Respondent and his partner used many of the same phrases and words in their Activity Log descriptions. The most telling similar phrase they wrote was: "pedestrian ran into passenger side of van."

After this incident, Respondent stated that he resumed patrol and picked up more prisoners in the van. Respondent also believed that he may have arrested someone. Collins indicated that after this incident he transported more prisoners in the van, made an arrest and conducted patrol for a concert at Madison Square Garden. However, even though the two officers performed other activities, there is no entry in the Activity Logs by either Respondent or his partner referring to anything that happened after this incident. They also both left large blanks after the notations and did not close out their memo books. Respondent conceded that he could not tell from his memo book what time he returned to his command.

The lack of entries for jobs that followed this incident is striking when juxtaposed with the two lengthy and detailed entries about an incident which both officers claimed was not an accident. Respondent conceded that the two discussed and decided what they were going to write in their Activity Logs. These detailed entries indicate that Respondent and Collins anticipated that Deras might later decide to allege that the van hit him. If these officers believed that there might be any question about whether an accident occurred, they had an obligation to obtain all identity and necessary information from Deras to prepare a report and to call their supervisor to the scene.

In contrast to the testimony of Respondent and his partner, Deras did not attempt to bolster his testimony. He admitted that he never told the officers that he had been hit. He acknowledged that he told the officers that he did not sustain any injury and did not

need any medical attention. His testimony that he did not say anything about being hit by the van because he thought it was obvious was credible. This complainant was not filing any lawsuit against the Department, was not seeking any financial advantage, and did not appear to have any motive to lie.

Therefore, based on all the foregoing reasons, Respondent is found Guilty of both Specifications.

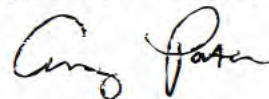
PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. *See Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974).

Respondent was appointed to the Department on July 6, 2010. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

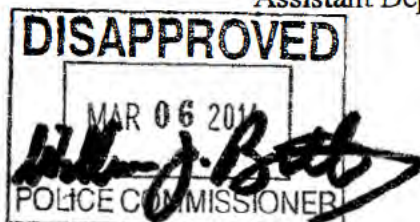
The Department recommended a penalty of 10 vacation days. Respondent's partner has previously pled to the same charges as Respondent and received a 10 day penalty. Therefore, as Respondent is equally culpable in this misconduct, it is recommended that Respondent forfeit 10 vacation days.

Respectfully submitted,



Amy J. Porter

Assistant Deputy Commissioner - Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER JEFFREY MATHIS
TAX REGISTRY NO. 949279
DISCIPLINARY CASE NO. 2012-7070

In 2012 and 2010, Respondent received ratings of 3.0 “Competent” on his interim and probationary performance evaluations. In 2011, he received a rating of 3.5, “Competent/Highly Competent.” [REDACTED]
[REDACTED] Respondent has no prior formal disciplinary record.

For your consideration.



Amy J. Porter
Assistant Deputy Commissioner Trials